

Before The  
**Communications C**  
Washington, DC 20554

In the Matter of: )  
 )  
Broadcast Localism ) MB Docket No. 04-233  
 )  
To: The Commission

**COMMENTS OF ECHOSTAR SATELLITE, L.L.C.**

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## SUMMARY

DBS providers have become unwitting pawns in an inherently hypocritical system: Television stations claim that “market forces” should govern the programming they carry, but “market forces” are not enough when it comes to MVPD carriage – the heavy hand of must carry regulation must apply. Broadcasters can not have it both ways. If they believe that market forces will not lead to a diversity of local television stations being carried by MVPDs, then those same market forces equally will not guarantee that television stations will provide local content. While EchoStar is required to set aside four percent (4%) of its bandwidth for Public Interest programming, and must carry all stations licensed to a market, regardless of whether they provide any local programming, broadcasters have been absolved of any requirement that they actually serve their viewers with local content, yet remain the beneficiaries of a regulatory regime that *assumes* that they are originating and broadcasting truly local content. EchoStar is forced to carry these stations through regulatory fiat, rather than marketplace demand.

In the *NOI*, the Commission asks whether television stations are meeting their public service obligations. Yet a further question must be asked: If individual television stations fail to provide a minimal amount of local programming, can they really be deemed “local” for purposes of SHVIA, and entitled to carriage throughout a television market? The record in this proceeding, and EchoStar’s experience, demonstrates that many television stations are failing in their obligations to provide viewers with local programming, including news and other public affairs programming. EchoStar’s own study of the stations it carries on “wing” satellites demonstrates that very few of them could meet the FCC’s old 5/10 processing guidelines, the 4 percent set-aside EchoStar must meet, or even the three (3) hour per week requirement imposed on low power Class A stations. EchoStar’s findings are not unique, a number of other studies

reveal that a significant number of stations offer little to no local content, and that many stations act merely as “spigots” for nationally delivered programming.

The Commission goes on to ask whether it should provide some incentive to broadcasters to meet their local programming obligations. EchoStar submits that there is one very simple, and very compelling, incentive that the Commission could adopt: In order to be defined as a “local” station for purposes of carriage under SHVIA, television stations should meet some minimal standard of local programming. As discussed herein, with a minor modification of one rule section, the Commission could provide the ultimate incentive for television stations to meet their Public Interest obligations: Provide some amount of local programming, or you are not guaranteed carriage on MVPD systems. The proposal contained herein advances the Congressional intent behind must carry – that viewers should have access to all local programming. If a station chooses not to air any local programming, it should not be heard to complain that it is not being carried by an MVPD, simple as that.

Theoretically, EchoStar agrees that marketplace forces should be allowed to work in all realms of television programming distribution, and there should be no must carry regulation. But what has evolved is an unbalanced playing field. So long as EchoStar is burdened with programming obligations, the beneficiaries of the special treatment accorded them by Congress should at least live up to Congress’s assumptions that they are meeting their Public Interest obligations by originating and airing local programming.

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EchoStar Satellite, L.L.C. (“EchoStar”), by its attorneys, hereby files these Comments in response to the Commission’s *Notice of Inquiry (“Localism NOI”)* in the above-captioned proceeding.<sup>1</sup> EchoStar limits these comments to the issue of whether television stations, when analyzed on an individual basis, are serving the Public Interest in terms of the local programming they air. The vast majority of local programming is aired almost exclusively on “big four” network affiliates. As such, EchoStar argues the Commission to adopt a new definition of “local station” for purposes of the DBS must carry rules which is consistent with SHVIA, and would require stations to demonstrate a commitment to providing local programming in order to be able to enforce carriage rights on DBS systems.

## I. INTRODUCTION

EchoStar is a multichannel video programming distributor (“MVPD”) that provides hundreds of channels of programming on its DBS system to over ten million subscribers throughout the United States. EchoStar is required to set aside four percent (4%) of its total capacity for Public Interest (PI) programming.<sup>2</sup> Television broadcasters, on the other hand, have

<sup>1</sup> 19 FCC Rcd. 12425 (2004). By an *Order*, DA 04-2457 (August 4, 2004), the Commission extended the comment deadline until November 1, 2004.

<sup>2</sup> See 47 U.S.C. § 335; *Implementation of Section 25 of the Cable Television Consumer Protection Act of 1992: Direct Broadcast Satellite Public Interest Obligations Order* (“DBS Public Interest Obligation

no specific requirement to provide local programming, having managed to convince the FCC to gut all regulations that would require them to provide such Public Interest programming, effectively arguing that the marketplace for video programming will ensure that viewers receive sufficient local programming.<sup>3</sup> At the same time, broadcasters have argued that marketplace forces alone are insufficient when it comes to carriage on MVPDs.

As part of its program offering, EchoStar delivers local-into-local service into 155 markets, and currently carries over 1100 distinct broadcast stations. Pursuant to SHVIA,<sup>4</sup> EchoStar must deliver the signal of all qualified stations in any market where it carries the signal of any local station. As currently interpreted, in order for a television station to be deemed “local” for carriage purposes, all a station need do is hold an FCC license in a community that is part of that market.<sup>5</sup> While stations must comply with certain procedural requirements in order to qualify for carriage,<sup>6</sup> and must deliver a usable signal to a DBS operator’s Local Receive Facility (“LRF”),<sup>7</sup> there is no current requirement that stations licensed to a market actually provide any local programming in exchange for being granted a priority right to carriage on a DBS system. So, in addition to carrying the affiliates of the major television networks, most of whom provide local news and other local oriented programming in a market, EchoStar is forced to carry a number of other stations that act merely as downlinks and distribution points for

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*Order*”), 13 FCC Rcd. 23254, 23285 (1998).

<sup>3</sup> See *Localism NOI*, ¶ 12. See also Section II.A *infra*.

<sup>4</sup> *Satellite Home Viewer Improvement Act (“SHVIA”)*, Section 338; Pub. Law 106-113, 113 Stat. 1501, 1501A-526 to 1501A-545 (November 29, 1999).

<sup>5</sup> 47 U.S.C. § 338(a)(1) (DBS providers shall “carry upon request the signals of all television broadcast stations within the local market . . .”).

<sup>6</sup> See, e.g., 47 C.F.R. § 76.66(d) (stations must properly elect must carry in a timely manner).

<sup>7</sup> See 47 C.F.R. §76.66(g) (stations must deliver a usable signal to a carrier’s LRF).

national programming. EchoStar is forced to carry these stations through regulatory fiat, rather than marketplace demand.

Theoretically, EchoStar agrees that marketplace forces should be allowed to work in all realms of television programming distribution, and there should be no must carry regulation. But what has evolved is an unbalanced playing field. Over-the-air television has been given a free pass, having convinced the FCC that it can be trusted through market forces to provide the same level of local and non-entertainment programming it did twenty or more years ago. These same broadcasters, however, have convinced Congress that market forces do not work when it comes to MPVD program distribution. Hence, EchoStar is forced to dedicate 4 percent of its bandwidth for Public Interest programming, *plus* the bandwidth necessary to carry all local television stations in local-into-local markets, while television broadcasters are excused from having to provide *any* local or public interest programming, yet still enjoy special regulatory treatment.

In the *NOI*, the Commission finally is asking the questions broadcasters have ducked for several decades: Are television stations meeting their public service obligations if they provide no local programming content?<sup>8</sup> EchoStar submits that a further question must be asked: If individual television stations fail to provide a minimal amount of local programming, can they really be deemed “local” for purposes of SHVIA, and entitled to carriage throughout a television market? The record in this proceeding, and EchoStar’s experience, demonstrates that many television stations are failing miserably in their obligations to provide viewers with local programming, including news and other public affairs programming.

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<sup>8</sup> *Localism NOI*, ¶ 14.

The Commission goes on to ask whether it should provide some incentive to broadcasters to meet their local programming obligations.<sup>9</sup> EchoStar submits that there is one very simple, and very compelling, incentive that the Commission could adopt: In order to be defined as a “local” station for purposes of carriage under SHVIA, television stations should meet some minimal standard of local programming. As discussed below, with a minor modification of one rule section, the Commission could provide the ultimate incentive for television stations to meet their Public Interest obligations: Provide some amount of local programming, or you are not guaranteed carriage on MVPD systems.

## **II. ARGUMENT**

### **A. The *Localism NOI* Demonstrates the Importance of Localism as it pertains to Local Television Service**

Swept under the table for a generation under the guise of “eliminating regulatory underbrush” and allowing “marketplace forces” to motivate broadcasters, the Commission’s *Localism NOI* is finally forcing the television industry to confront its dirty little secret – many, if not the majority, of television stations provide little or no local programming to their viewers. They have become, as the Commission feared in 1971, “a network spigot or mere purveyor of nonlocal film programming,” and are not meeting their crucial role as a “local outlet.”<sup>10</sup> The *Localism NOI* poses this fundamental question as follows:

Given the importance of localism, we initiate this proceeding to receive direct input from the public on how broadcasters are serving the interests and needs of their communities; whether we need to adopt new policies, practices, or rules designed directly to promote localism in broadcast television and radio; and what those policies, practices, or rules should be. For each of the public policy goals discussed below, we seek comment on the particular mechanism needed to ensure that licensees satisfy the stated goal. We seek comment on whether market forces

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<sup>9</sup> *Localism NOI*, ¶¶ 12-13.

<sup>10</sup> *Formulation of Policies Relating to the Broadcast Renewal Application, Notice of Inquiry*, 27 FCC 2d 580, 581 (1971).



will provide enough incentive for a broadcast station to satisfy a particular policy goal, or whether regulation is needed.<sup>11</sup>

The Commission is now forced to address these issues twenty years after it eliminated all explicit local program requirements.<sup>12</sup> Based on heavy lobbying by the broadcast industry, the FCC concluded in 1984 that marketplace forces alone would ensure that stations would provide local content. “[O]ur review of the record and study of station performance persuades us that licensees will continue to supply informational, local and non-entertainment programming in response to existing as well as future marketplace incentives, thus obviating the need for the existing guidelines.”<sup>13</sup> The prior guidelines had specified, among other things, that a television station’s license renewal could not be approved at the staff level if the station’s programming contained less than ten percent (10%) non-entertainment programming and less than five percent (5%) local programming, but rather had to be referred to the full Commission for a determination of whether that station was meeting its Public Interest obligations.<sup>14</sup> Although eliminating the processing guidelines, the Commission steadfastly maintained that it was not abandoning its requirement that television stations provide non-entertainment programming. “Our action here, however, does not constitute a retreat from our concern with the programming performance of television station licensees.”<sup>15</sup> Elimination of the guidelines, especially those that made distinctions between different types of non-entertainment and local programs, was designed to allow television stations flexibility in meeting their Public Interest obligations. “For example, a

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<sup>11</sup> *Localism NOI*, ¶ 7.

<sup>12</sup> *See Revision of Programming and Commercialization Policies*, 98 FCC 2d 1076 (1984).

<sup>13</sup> *Id.* at 1080. The Commission pointed to studies submitted by the National Association of Broadcasters (“NAB”) and others showing that, on average, stations were far exceeding these averages, and that, overall, stations were devoting some 15 percent of their programming time to informational programming. *Id.* at 1080-1085.

<sup>14</sup> *Id.* at 1077.

<sup>15</sup> *Id.* at 1077.

licensee may find it competitively appropriate to emphasize one type of programming within the guidelines rather than presenting programming in all categories.”<sup>16</sup> While the Commission did presume that the percentage of such programming would vary between stations,<sup>17</sup> it nonetheless emphasized that the obligation to provide local and non-entertainment programming is an *individual* and not a *market* concept. “This is particularly true in view of the continuing obligation of *all licensees* to contribute issue-responsive programming and their responsibility to ensure that the strongly felt needs of all significant segments of their communities are met by market stations collectively.”<sup>18</sup>

## **B. Many Stations Have Totally Abdicated Their Localism Responsibilities**

What a difference 20 years makes. In contrast to studies submitted in the early 1980s, showing that the average station was dedicating some 15 percent of its programming time for non-entertainment programming,<sup>19</sup> the *Localism NOI* points to several studies demonstrating a precipitous decline in such programming, especially at the local level.<sup>20</sup> More recent studies also support this conclusion, and EchoStar’s own experience and analysis bear this out.

### **1. Independent Studies Demonstrate How Poorly The Vast Majority of Television Stations Are Serving Their Viewers**

The *Localism NOI* points to the studies conducted by the Benton Foundation in which it looked at individual markets and the extent to which television stations in those markets provided non-entertainment programming.<sup>21</sup> The results of the 1998 Study (“What’s Local

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<sup>16</sup> *Id.* at 1087.

<sup>17</sup> *See Id.* at 1085 (“we are confident, therefore, that under current marketplace conditions such programming will continue to be available irrespective of our elimination of the guidelines”).

<sup>18</sup> *Id.* at 1087 (emphasis added).

<sup>19</sup> *Id.* at 1080.

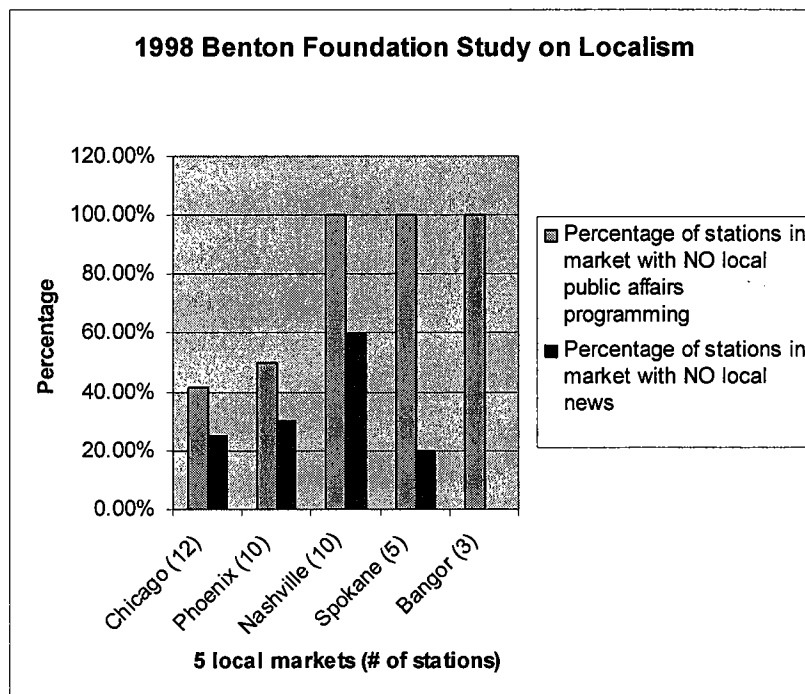
<sup>20</sup> *Localism NOI*, ¶¶ 12-13.

<sup>21</sup> *Id.* at ¶ 13.

About Local Broadcasting?") are staggering, especially compared to the Commission's conclusions in 1984 that market forces would ensure that non-entertainment programming would continue to constitute between 10 and 15 percent of all programming. The 1998 Benton Foundation Study analyzed the programming provided by a total of 40 stations in five markets, chosen to represent a cross-section of large, medium, and small markets. It concluded:

- a. *In toto*, the 40 stations devoted 0.35% of total airtime to local public affairs programming.
- b. In three of the five markets studied, **no** station delivered **any** local public affairs programming.
- c. 35% of stations studied offered no local news.
- d. 25% of stations studied offered neither local public affairs programming or local news.

The performance of these stations can be depicted graphically, and it is **not** a pretty picture.



In a further study, submitted to the FCC in March 24, 2000,<sup>22</sup> the Benton Foundation analyzed 112 commercial stations in 24 DMAs. This time the Benton Foundation did not break down the numbers to the station-level, but rather aggregated the data on a market by market basis. Its conclusions are nonetheless consistent with the 1998 study in showing the dearth of local programming. Stations averaged 1.1 hours per week of local public affairs programming, accounting for 0.3 percent of the total broadcast hours studied. Further, contrary to the Commission's conclusions in 1984 that increasing numbers of outlets in each market would drive new entrants to provide more and unique non-entertainment programming,<sup>23</sup> in fact, the Benton Foundation found no correlation between the number of stations in a market and increases in local public affairs programming.

Overall these results conform with the observations made in the market-level analysis – that although larger markets provide a greater aggregate amount of local public affairs programming, individual stations do not respond to increasingly competitive market conditions by producing more local public affairs programming. . . Instead, public affairs programming appears to be unaffected by competitive conditions.<sup>24</sup>

It appears that local television stations fare no better when it comes to covering local political races. In the testimony of Martin Kaplan of the Annenberg School for Communications at the University of Southern California before the FCC's Localism Hearing in Monterey, California, on July 21, 2004, he presented the results of a study conducted by the Lear Center Local News Archive. That study analyzed 10,000 of the top-rated local news programs aired by 122 stations in the top 50 DMAs during the last seven (7) weeks of the 2002 campaign.<sup>25</sup> In

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<sup>22</sup> Comments of Benton Foundation in MM Docket 99-360, filed March 24, 2000 ("*Benton Foundation 2000 Study*").

<sup>23</sup> See *Revision of Programming and Commercialization Policies*, 98 FCC 2d at 1080, 1085.

<sup>24</sup> *Benton Foundation 2000 Study*, p. 13.

<sup>25</sup> See Comments of USC Annenberg School, submitted in this proceeding on September 1, 2004.

culling its archive down to analyze these clips, as a threshold matter, Annenberg was confronted by the fact that “[t]here are many stations that do little or no local news, public affairs, or public service programming.”<sup>26</sup> By its nature, then, this study focused on the “best of the best,” since it included only stations that regularly aired news programming, and even more selective, it considered only the highest rated news programming in each market. Even as to these “top shelf” stations, the Study concluded that:

- Only 44 percent of the news broadcasts contained any campaign coverage at all;
- Only 15 percent of these stories focused on local races (e.g. U.S. House of Representatives, state senate or assembly, or municipal races);
- Nearly half of those commercials focused solely on campaign strategy or “horserace” (how the candidates were doing in the polls);
- Less than 30 percent of campaign stories actually showed the candidates speaking; and
- The average campaign story lasted less than 90 seconds.<sup>27</sup>

The only positive market force that Annenberg found was that with many television stations abandoning their obligations to serve their local viewers by presenting political discourse, non-broadcast sources have filled that gap. “Some of the best television news is not done by broadcasters, but by more recent entrants, notably local all-news cable television channels that have been started in the past decade.”<sup>28</sup> What Annenberg doesn’t point out, of course, is that this programming is available *only* to cable subscribers, and not to the 15 percent of the population that does not subscribe to an MVPD service, or to DBS subscribers who don’t have access to local cable programming. Is this really the video distribution landscape the Commission envisioned in 1984 when it eliminated its programming guidelines?

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<sup>26</sup> USC Annenberg Comment, p. 1.

<sup>27</sup> Comments of USC Annenberg, Attachment A, Kaplin Testimony, pp. 1-2.

<sup>28</sup> Comments of USC Annenberg, p. 1.

## **2. EchoStar's Own Analysis of Stations It Carries on "Wing" Satellites Demonstrate That Few if Any Provide More Than *De Minimis* Local Programming**

EchoStar has been viciously attacked for adopting a two-dish solution to its bandwidth limitations, thus allowing it to provide local-into-local service to as many markets as possible.<sup>29</sup> Yet one of the major criteria EchoStar uses to determine which stations go out on the wing is the amount of local programming those stations air. For "local-into-local" to have any real meaning, a station must have some indicia of being "local" other than just having received a license to operate within the market. When one examines the 103 stations currently located on wing satellites in 2-dish markets, the local performance of these stations is appalling.<sup>30</sup> Of the 103 stations:

- 59, or 57%, air absolutely no local public affairs or news programming;
- Only 10, or 9.7%, dedicate more than 5% of their programming time to local public affairs or news programming;
- Only 15, or 14.6%, dedicate more than 4% of their programming time to local public affairs or news programming (EchoStar must set aside 4% of its bandwidth to Public Interest programming);
- Only 34, or 33%, air more than three hours per week of local programming, the Class A standard. In other words, a full two-thirds of the stations carried on the wings by EchoStar couldn't even qualify for interference protection if they were licensed as low power stations;
- 26, or 25.25%, are affiliated with networks for which EchoStar already carries the national feed of the network. And of these affiliates, 53% offer absolutely no content other than the network feed. In these cases, EchoStar's carriage of these stations does nothing more than totally duplicate a signal already available to all EchoStar subscribers. Requiring dual carriage of this programming is an utter waste of the limited bandwidth licensed to EchoStar.

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<sup>29</sup> See *National Association of Broadcasters – Request for Modification or Clarification of Broadcast Carriage Rules for Satellite Carriers ("Declaratory Ruling")*, 17 FCC Rcd. 6065 (MB 2002), applications for review pending.

<sup>30</sup> See Attachment 1 hereto, *Analysis of Local Programming of Wing Stations*.

### C. The Television Industry Attempts to Obscure The Real Issue

The broadcast industry, and especially NAB, have attempted to redefine the debate on localism by: 1) Equating the retail value of donated time for public service announcements (PSAs) with localism; and 2) Focusing on the efforts of the very best stations while trying to hide the free riders under their apron strings. EchoStar agrees that many, many broadcasters provide important local public services to their viewers, but focusing only on “macro” numbers and top performers distorts the overall picture of industry performance, and totally ignores the Commission’s mandate that *all* broadcast stations must provide local service.<sup>31</sup>

For example, in its most recent report, *A National Report on Local Broadcasters’ Community Service*,<sup>32</sup> NAB points to the \$9.6 billion of value it claims broadcasters provided their communities. Of that \$9.6 billion, \$7.3 billion was attributed to the value of broadcast time devoted to PSAs, with the other \$2.3 coming from money raised (presumably from others) as a result of fundraising efforts to which broadcasters contributed. Others have called into question whether placing a dollar value on broadcaster efforts is accurate.<sup>33</sup> More fundamentally, the question must be asked as to whether “localism” is a commodity to which a dollar figure can be

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<sup>31</sup> See *Revision of Programming and Commercialization Policies*, 98 FCC 2d at 1087 (“continuing obligation of all licensees to contribute issue-responsive programming”). See also *Localism NOI*, ¶ 17 (“radio and television stations must use the broadcast medium to serve the needs and interests of their local communities. . .”).

<sup>32</sup> *A National Report on Local Broadcasters’ Community Service* (“NAB 2004 Community Service Report”), dated June 2004. Available at <http://www.broadcastpublicservice.org/>.

<sup>33</sup> See, e.g., Comments of then FCC Chairman Kennard at the Museum of Television and Radio, New York, New York, October 10, 2000 (calling the 1999 version of the Report’s figure of \$8.1 billion “overstated”). A copy of this speech can be found at <http://www.fcc.gov/Speeches/Kennard/2000/spwek023.html>. See also *Broadcasting & Cable*, “Adding up the public service dollars,” April 6, 1998, p. 76 (noting that the value of PSA time was calculated at the highest rate per station, not the much lower “run of schedule” (ROS) rate which would account for the PSAs running in all day parts on a given station).

attached, and whether merely clearing space in advertising inventory for PSAs, nearly half of which are not local,<sup>34</sup> evidences a sufficient commitment to localism.

Once the reader gets beyond the dollar figure, moreover, the *NAB 2004 Community Service Report* raises other questions. What are the stations doing who couldn't be bothered to respond to a survey that NAB has pushed so hard to compile?<sup>35</sup> Only 63% of television stations took the time to respond to the survey (727 of 1,149 commercial broadcast stations).<sup>36</sup> Moreover, based on the stories contained in the *Report*, it appears that most of the television respondents were either "big four" network affiliates, or owned by large group owners. As with the Annenberg Study, then, this appears to be a "best of the best" study, and as such, the results of the study cannot be extrapolated to cover those 422 commercial television stations that did not provide any data.

Even the data from the stations that did respond leave the reader scratching his or her head. The *Report* indicates that the average television station ran 143 PSAs per week. If the average PSA running time is assumed to be 20 seconds (to account for some 30 second PSAs but a large number of 5 and 10 second PSAs), then the average television station devoted less than one hour per week (47.6 minutes) to PSAs, or less than one-half of one percent (0.4%) of their broadcast day. Of these only 56 percent, or less than one-half hour per week, dealt with local issues.<sup>37</sup> Strikingly, this is the *only* quantifiable number in the *Report* in terms of time devoted by television stations to non-entertainment programming. While the *Report* lists categories of issues addressed by TV stations in PSAs, public affairs programs and news segments, it is

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<sup>34</sup> *NAB 2004 Community Service Report*, p. 6.

<sup>35</sup> See *NAB 2004 Community Service Report*, p. 4 (describing multiple "waves" of surveys sent out to broadcasters).

<sup>36</sup> *Id.*

<sup>37</sup> *NAB 2004 Community Service Report*, p. 6.



impossible to derive any totals as to the amount of air time devoted on either an aggregate or individual station basis. Instead, the bulk of the *Report* (85 of 92 pages) is devoted to individual anecdotal success stories highlighting the good works of individual stations.

An analysis of the stations singled out by NAB brings this issue into sharp relief. As detailed in Attachment 2 hereto, nearly ninety percent (90%) of the stations identified by NAB as providing vital local service are affiliated with one of the “big four” networks (ABC, CBS, FOX, NBC).<sup>38</sup> When the two market-wide initiatives are eliminated,<sup>39</sup> of the 116 stations identified, only 10, or 8.6%, are not affiliated with a “big four” network. Indeed, NAB could only find the efforts of one independent station, one PAX affiliate, and one Univision affiliate, out of the 727 responding television stations, worthy of mention in their 95 page report.

The reason for NAB’s approach is obvious. The last thing broadcasters want is for the FCC to start totaling up the amount of airtime actually devoted to local non-entertainment programming.<sup>40</sup> As demonstrated in the Benton Foundation and Annenberg Studies, as well as EchoStar’s own study of “wing” station performance, such an exercise would certainly demonstrate that broadcasters today are dedicating far less time to such programming than they did in the early 1980s, when they so vigorously claimed that “market forces” would ensure that such programming would continue to air on free over-the-air television. Moreover, such a quantitative analysis would most assuredly disclose that a significant number of stations are providing next to no local service whatsoever.

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<sup>38</sup> See Attachment 2, hereto.

<sup>39</sup> See *NAB 2004 Community Service Report*, p. 54. NAB does not indicate which station or stations was responsible for producing the programming that was aired by all stations in the market.

<sup>40</sup> The last time NAB did provide such quantitative information, it concluded that 35% of television stations aired no public affairs programming. See NAB Reply Comments in Docket 99-360, filed April 25, 2000, p. 11. As with now, NAB there focused on the efforts of the best stations, concluding that major network affiliates in surveyed markets dedicate one-third of total broadcast hours to non-entertainment programming. *Id.*

Instead, the broadcasters have adopted a campaign of trying to shift the focus away from programming totals or individual responsibility, instead focusing on the minority of stations that actually meet their public service obligations. NAB has gone so far as to argue that with the advent of MVPDs and even the Internet, the Commission does not even have to rely on broadcasters anymore to deliver programming of public importance. “In sum, in an era of digital abundance, NAB believes that the Commission should rely to a greater extent on the discretion of broadcasters and the increasingly competitive media marketplace to insure service to the public.”<sup>41</sup> Thus, not only would NAB agree with Annenberg that some of the best and most important news and public affairs programming was now being provided by cable networks (and thus not available free over-the-air), but that such a state of affairs is just fine. The “race to the bottom” has hit an all-time low if broadcasters on the one hand can claim credit for the public affairs programming aired by MVPDs, yet demand that over-the-air broadcasting must be protected through non-marketplace must carry regulations.

**D. Case In Point: The Florida Hurricanes – The Best and Worst of Localism**

In August and September, 2004, Hurricanes Charley, Frances, and Jeanne all bore down on the state of Florida, delivering a one-two-three punch that sent the state reeling. Many broadcasters performed exemplary service to their viewers by providing critical news and weather information, and the broadcast industry saved many thousands of lives through their timely information, sometimes even going counter to information provided by the National Weather Service.<sup>42</sup>

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<sup>41</sup> NAB Comments in MB Docket 99-360, filed March 27, 2000.

<sup>42</sup> See [http://www.sptimes.com/2004/08/14/Artsandentertainment/Charley\\_tests\\_mettle\\_.shtml](http://www.sptimes.com/2004/08/14/Artsandentertainment/Charley_tests_mettle_.shtml) (report from the *St. Petersburg Times* assessing local media coverage of Hurricane Charley, and the fact that most of the local television stations reported the change of path away from a direct hit on Tampa prior to the National Weather Service amending its prediction).

EchoStar is proud of the role it played in these disasters as well.<sup>43</sup> While the state of Florida braced for Hurricane Charley, EchoStar became concerned that the storm might damage the transmission towers of the local broadcasters in Tampa and Ft. Myers, or EchoStar's Local Receive Facility, leaving Florida citizens without important emergency information. In response to EchoStar's initiative and efforts, most broadcasters allowed DISH Network subscribers to view the Orlando stations and have an uninterrupted source of critical information.<sup>44</sup> The response was not universal, however, as a number of stations and group owners initially cited their legal rights to block the importation of distant signals, regardless of the public's critical need for weather information. In most cases, EchoStar was able to convince the holdouts to put aside their strictly business motivations and think instead about what was the right thing to do. Ultimately, all but a few stations waived their purely legal rights in the event that their stations or EchoStar's LRF were knocked off the air.

When Hurricane Frances was bearing down on Florida, EchoStar again reached out to the broadcast industry to ensure that important emergency information remained available to Florida's citizens.<sup>45</sup> Fortunately, EchoStar ultimately used these backup arrangements only for a

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<sup>43</sup> See Attachment 3, hereto, letters from Charlie Ergen, President of EchoStar to Chairman Powell, dated September 8, 2004 and September 28, 2004, detailing EchoStar's efforts to deliver local programming to Florida residents at times when they risked losing such programming if local television stations were knocked off the air by the hurricanes.

<sup>44</sup> For example, during Hurricane Charley, EchoStar obtained permission to replace three Tampa TV signals with signals out of Orlando, where news crews were also closely monitoring the storm. Broadcasters in Tampa affiliated with CBS (WTSP, Channel 10), NBC (WFLA, Channel 8) and Fox (WTVT, Channel 13) allowed EchoStar to import the Orlando sister stations temporarily after EchoStar's receiving station in Tampa lost power. Also, the ABC affiliate in Tampa (WFTS, Channel 28) established an alternative means for DISH Network to receive its signal, sending it directly to Atlanta, where DISH Network was able to pick it up via another receiving station.

<sup>45</sup> For example, working with senior management at Viacom Inc. and the local station management of a Viacom-owned station in West Palm Beach, EchoStar allowed that station to receive the weather information provided by a neighboring NBC affiliate. In addition, to ensure sufficient backup, EchoStar secured permission from ABC, NBC, and CBS affiliates in Tampa to import their signals to neighboring Florida markets that might have lost power. Finally, EchoStar received similar permission from a number

brief period, but DISH Network subscribers in areas hit by the storm had a reliable source of emergency information throughout the critical hours that the hurricane came ashore.

EchoStar and broadcasters continued this pattern of cooperation as Hurricane Ivan took aim at the gulf coast. In Louisiana, Alabama and Florida markets, many stations in 12 markets (Miami, Ft. Myers, West Palm Beach, Tampa, Orlando, Jacksonville, Tallahassee, Albany, Panama City, Mobile, Montgomery and New Orleans) gave permission to import their signal into another market if that market lost power and also waived objection to the importation of an out-of-market network signal in the event that their own station went down.

Finally, to ensure sufficient backup during Hurricane Jeanne, EchoStar secured permission from ABC, NBC, and CBS affiliates in Tampa to import their signals into neighboring Florida markets that might have lost power. EchoStar also received permission to import these Tampa affiliates' signals into the Jacksonville, Orlando, West Palm Beach, and Miami/Ft. Lauderdale markets in the event that a station lost power. Again, fortunately, EchoStar ultimately used this backup arrangement only for a brief period, but DISH Network subscribers in areas hit by the storm had a reliable source of emergency information.<sup>46</sup>

Broadcasters will hold this year's hurricane season up as "Exhibit A" as to why the FCC need not consider any new regulations concerning localism – broadcasters fully demonstrated their commitment to localism this summer in Florida.<sup>47</sup> But touting the good works performed

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of network affiliates in Jacksonville, Orlando, West Palm Beach, and Miami/Ft. Lauderdale.

<sup>46</sup> EchoStar was unable to obtain "clearances" from several stations because they refused to waive their rights to block importation of an adjacent market station, even in an emergency. This is indeed unfortunate, and EchoStar hopes in the future when it reaches out to work with broadcasters in times of emergencies that broadcasters will set aside their competitive instincts just long enough to ensure that their viewers receive critical health and safety information.

<sup>47</sup> See Comments of NAB in EB Docket 04-296, filed October 29, 2004, p. 6 (discussing broadcasters' response to the Florida hurricanes, and citing Letter from Eddie Frits, President, NAB, and Pat Roberts, President, Florida Association of Broadcasters to Chairman Powell, August 17, 2004).

by the network affiliates in those markets tells only half the story. While those stations were actively protecting the health and safety of Florida residents, what were other television stations doing? While many stations broke away from regular programming to provide 24-hour news and weather coverage, what did other television stations do?

For example, EchoStar has identified at least five full power television stations in Florida that, according to their most recent FCC Form 396 EEO filings, have fewer than five full time employees. These stations are WBIF, Marianna, Florida (Panama City DMA), licensed to EBC Panama City, Inc. (ultimately controlled by Equity Broadcasting); WXPX, St. Petersburg, Florida (Tampa-St. Petersburg DMA), licensed to Paxson Communications Licensee Company, LLC; WOTF, Orlando, Florida (Orlando DMA), licensed to Telefutura Orlando, Inc.; WFTT, Tampa, Florida (Tampa-St. Petersburg DMA), licensed to Telefutura Tampa, LLC; and WPXP, West Palm Beach, Florida (West Palm Beach DMA), licensed to Paxson West Palm Beach License, Inc.

Each of these entities has taken a minimalist approach to providing television service in the markets they are licensed to serve. Equity Broadcasting programs and controls each of its 20 television stations from a single facility in Little Rock, Arkansas.<sup>48</sup> Telefutura trumpets the fact that it was “the first 24-hour national broadcast network to premier with network programming in every daypart.”<sup>49</sup> And the program lineups for the two Paxson stations, WXPX and WPXP

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<sup>48</sup> See <http://www.ebcorp.net/cash.htm> (discussion of Equity’s Central Automated Satellite Hub (C.A.S.H.) system which provides all of the programming for Equity’s stations). It is no coincidence that Equity calls this system “CASH,” as its own “philosophy” or mission statement is based on “increasing revenue potential,” not providing local service to its viewers. See [http://www.ebcorp.net/ebc\\_philosophy.htm](http://www.ebcorp.net/ebc_philosophy.htm).

<sup>49</sup> See <http://www.univision.net/corp/en/telefutura.jsp>. Telefutura goes on to state: “By ‘counter programming’ traditional Spanish-language schedules with an innovative lineup of top-quality **entertainment**, TeleFutura satisfies the tremendous thirst for diverse programming that today’s multifaceted U.S. Hispanic community demands.” (emphasis added).

appear identical.<sup>50</sup> With each station having fewer than five full time employees, what were these four or less people doing while the hurricanes were bearing down on Florida? Were they continuing to run their schedule of “innovative entertainment programming”? And if they were airing any special programming related to these natural disasters, was it their own, or merely another station’s feed or some nationally produced programming, that ultimately had to rely on those stations taking the risk, and putting their personnel in harms way in order to serve the Public Interest? Or did these stations do nothing more than run an EAS crawl alerting viewers that there was an emergency and they find a truly local broadcast source for better information. With fewer than five full time employees, it is difficult to imagine how these stations could have provided any timely, relevant information to a population that was scared, and in need of vital information, which they have a right to believe will be provided by *every* television station.

This is an inquiry the Commission *must* undertake, not only of these stations, but of all stations licensed to serve Florida. For it is in a time of crisis, such as this, that the true character of *all* broadcasters must be measured. Do they rise to the occasion and serve their viewers, or merely continue to provide the same satellite feed of programming, oblivious of local needs? It is not enough for the broadcast industry as a whole to say that they provided exemplary coverage of the hurricanes. The Commission should drill down deeper to analyze this issue on a station-by-station basis to determine whether all stations met their Public Interest obligations.

Is a system fair where some stations send reporters knee deep in the ocean surge to warn residents to evacuate while other stations do nothing more than continue their network feed with the possible addition of an EAS crawl instructing stations to tune to other stations in the market

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<sup>50</sup> Compare [http://www.pax.tv/stations/eeo.cfm?sti\\_id=35](http://www.pax.tv/stations/eeo.cfm?sti_id=35) (WXPX programming lineup), with [http://www.paxtv.com/stations/default.cfm?sti\\_id=30&siteid=50607](http://www.paxtv.com/stations/default.cfm?sti_id=30&siteid=50607) (WPXP programming lineup). Neither station appears to broadcast any local programming whatsoever.

that actually care about their health and safety? If this is the case, then one *must* ask, “whither localism?” What is left of the fundamental basis of free over-the-air broadcasting? And if some stations have abandoned any intention of providing local service, what is left of the underpinnings of the MVPD carriage rules, which are based, at their core, on the concept that local news and information programming vital to public safety must be provided to all subscribers to MVPD service. If there is no local content, is there a need for carriage?

**E. Putting Teeth Into Localism: The FCC Should Adopt a New Definition of “Local Television Broadcast Station”**

In response to the fundamental questions asked in the *Localism NOI*, the analysis above makes three things abundantly clear:

- The average amount of local programming, and especially locally produced non-entertainment programming, has declined markedly from that which existed at the time the FCC concluded it could rely on “market forces” in 1984 to assure continued local service;
- There are a large number of television stations that provide little or no local content yet still demand the benefits of being deemed “local;”
- There are, in fact, no “market forces” incentivizing stations to provide local content -- only the network affiliate stations and a very few other stations will provide any local content at all. The remainder of stations are “free riders.”

More important than any numerical standard adopted, the Commission needs to put some “teeth” into the concept of localism so that broadcasters cannot evade their obligations to serve their viewers. One very simple way in which the Commission could almost guarantee a new emphasis on localism would be to tie it to DBS carriage. In other words, stations that can demonstrate that they are “local” would qualify for carriage. Those that choose not to meet a minimal standard would not be allowed to enforce carriage rights under SHVIA. In that way, broadcasters can either choose to operate their stations as “satellite spigots” and maximize their profit by minimizing local production and labor costs, and forfeit carriage rights, or, they can

choose to serve their viewers in the way Congress intended, and qualify for carriage on DBS systems.

The Commission can adopt rules that accomplish this quite easily, and within the context of the existing statute. SHVIA Section 338(a)(1) specifies that DBS operators “shall carry upon request the signals of all television broadcast stations located within that local market.”<sup>51</sup> The term “Television Broadcast Station” is defined in Section 338(h)(7) by referencing Section 325(b)(7) of the Communications Act.<sup>52</sup> However, Congress specified in Section 338(f)(1) that carriage rights can only be enforced by “a local television broadcast station.”<sup>53</sup> This term is not defined anywhere in statute or current rules, however. Thus, the Commission, consistent with SHVIA, can adopt the following definition (assuming the Commission adopts the least burdensome benchmark, the Class A programming standard discussed below):

Section 76.55(f): *Local Television Broadcast Station.* A local television broadcast station is any full power television broadcast station, licensed and operating on a channel regularly assigned to its community by the Commission, and which airs unique locally produced programming designed to meet the documented needs of viewers within their service area for at least four percent (4%) of each broadcast week.

The term “unique” is necessary in the rules so that stations do not merely rerun the same half hour of programming 3 hours per week, and so that stations do not collude to produce a set of programs that are “bicycled” around to each station in the market. By including “designed to meet the documented needs of viewers,” the FCC would ensure that stations properly adhere to whatever form of assessment/ascertainment the Commission adopts in this proceeding.<sup>54</sup>

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<sup>51</sup> 47 U.S.C. § 338(a)(1).

<sup>52</sup> 47 U.S.C. § 338(h)(7).

<sup>53</sup> 47 U.S.C. § 338(f)(1).

<sup>54</sup> See *Localism NOI*, ¶¶ 9-10. NAB has stated that stations meet their Public Interest obligations, in large part, by compiling these issues/programs lists. But see *San Francisco Unified School District (KALW)*, *Hearing Designation Order*, 19 FCC Rcd. 13326, ¶ 11 (2004) (setting for hearing the renewal application



Adopting this new definition is consistent with Congressional intent that MVPD subscribers not be deprived of local programming.<sup>55</sup> If a station provides no local programming, failure to carry that station does not deprive subscribers of any local programming. Moreover, in many cases those same stations are merely rebroadcasting a national network feed that EchoStar already carries. This would be the only impact of adding this definition. Television stations that choose not to air the minimum required amount of local programming would still be afforded all other rights under the Communications Act, including interference protection and a renewal expectancy, thus their ability to reach over-the-air viewers with their signal would not be impacted. Those stations which do choose to meet their Public Interest obligations by meeting the minimum standard would be able to exercise carriage rights as a “local television broadcast station.”

Such a definition would provide exactly the type of “encouragement” the Commission is looking for in this proceeding. “For example, the Commission might encourage broadcasters, through some means, to air a certain level of public affairs programming and public service announcements, with an emphasis on local programming.”<sup>56</sup>

#### **F. Establishing A Proper Standard For Localism**

If the Commission concludes, as it should, that each locally licensed television station has an obligation to provide local programming to its service area, the FCC must adopt *some*

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of a non-commercial television station following allegations that station merely took an NPR program list and typed on top if it the “issues” addressed by those programs).

<sup>55</sup> See *Implementation of the Satellite Home Viewer Improvement Act of 1999: Broadcast Signal Carriage & Retransmission Consent Issues* (“DBS Must Carry R&O”), 16 FCC Rcd. 1918, ¶ 13 (2000), citing *Turner Broadcasting Systems, Inc. v. FCC*, 114 S.Ct. 2445, 2469 (1994) (“*Turner II*”), *aff’d* 520 U.S. 180 (1997) (absent must carry, Congress found in §2(a)(16) of the 1992 Cable Act that “the economic viability of free local broadcast television *and its ability to originate quality local programming* will be seriously jeopardized”)(emphasis added).

<sup>56</sup> See *NOI*, ¶ 13.

standard against which it can test the performance of individual stations. Some candidate standards could be:

1. **The old 5/10 rule.** Under the old processing guidelines, a station needed to demonstrate that it aired more than 5% local programming and 10% non-entertainment programming in order for its renewal application to be granted at the staff level. The Commission could consider returning to this standard, in light of the television industry's utter failure to live up to its promise in 1984 that it would maintain roughly this amount of programming if granted "flexibility" to better serve its viewers.
2. **The DBS Four Percent Set Aside Rule.** Under statute,<sup>57</sup> DBS operators are required to set aside four percent (4%) of their total bandwidth for public affairs programming. The Commission could adopt a similar standard for television stations. Although less stringent than the old 5/10 rule, it would bring television broadcasters in line with DBS operators in terms of the amount of "bandwidth" that would have to be dedicated to something other than straight entertainment programming. As demonstrated above, many television stations currently fall far short of this standard. If the Commission adopts a standard that matches what DBS providers face, it should also consider requiring that stations must meet this requirement across all dayparts, rather than allowing them to relegate such local content to "graveyard" time periods where historically very few viewers watch television.
3. **The Class A Three Hour Per Week Standard.** In order for a low power television station to qualify as a Class A station, and therefore receive interference protection and not be subject to displacement from other primary licensees, a station must demonstrate

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<sup>57</sup> 47 U.S.C. § 335.

that it was airing three hours of locally produced programming per week.<sup>58</sup> Three hours per week for a station operating 24 hours per day would constitute 1.78% of its programming time. For a station operating 18 hours per day, it would constitute 2.38% of its broadcast day, still less than half of the pre-1984 guidelines.

EchoStar supports the adoption of the four percent (4%) standard, as the most analogous to that faced by other MVPDs. This standard would equate to approximately seven (7) hours per week, but would still be significantly less than the old 5/10 processing guideline. Surely full power television stations can manage to do better than their Class A LPTV cousins, who have taken on the three hour local programming standard in exchange for some interference protection.

### **III. CONCLUSION**

DBS providers such as EchoStar have become unwitting pawns in a hypocritical system: Television stations claim that “market forces” should govern the programming they carry, but “market forces” are not enough when it comes to DBS carriage – the heavy hand of must carry regulation must apply. Broadcasters can not have it both ways. If they believe that market forces will not lead to a diversity of local television stations being carried by MVPDs, then those same market forces equally will not guarantee that television stations will provide local content. The proposal contained herein advances the Congressional intent behind must carry – that viewers should have access to all local programming. If a station chooses not to air any local programming, it should not be heard to complain that it is not being carried by an MVPD, simple as that.

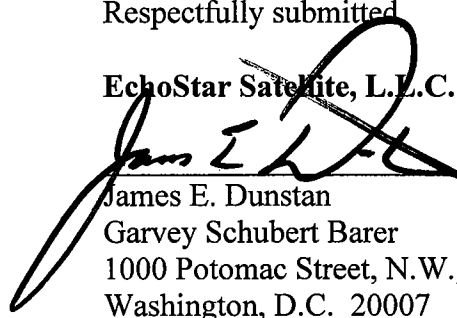
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<sup>58</sup> 47 U.S.C. § 336(f)(2); *See Establishment of a Class A Television Service*, 15 FCC Rcd. 6355, 6363-64 ¶¶ 16-19 (2000); *see also Localism NOI*, ¶ 14, n. 44 (discussion of Class A three hour local programming requirement).

The Commission has given broadcasters a “free pass” for twenty years. In that time the level of local programming has diminished, as “market forces” have failed to encourage broadcasters to provide local programming. It is time to provide broadcasters with an “incentive” that they can understand. The proposal contained herein provides that incentive.

Respectfully submitted

EchoStar Satellite, L.L.C.

A large, stylized handwritten signature in black ink, appearing to read 'James E. Dunstan', is written over the printed name and address of James E. Dunstan.

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November 1, 2004

## Attachment 1

### Analysis of Local Programming of Wing Stations

# Analysis of Local Programming of Wing Stations

NOTE: Programming from week of 5/16/04

City	Station	Affil	Programming Format	Local Hours/W k.	Local Content	% of Programming is Local	% Exceeds 5% Local	% Exceeds 4%	Exceed 3 hrs/week	No Local Programming or Local News	EchoStar Carries National Feed of Network	% Exceeds 5% Local	% Exceeds 4%	Exceed 3 hrs/week?	No Local Programming or Local News
Atlanta	WPBA	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WTBS	IND	Syndicated	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WUVG	Univision	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE
Boston	WENH	PBS	Public Television	9.5	2-Music, 7.5-Public Affairs	5.65%	TRUE	TRUE	TRUE	FALSE					
	WGBX	PBS	Public Television	2	2-Public Affairs	1.19%	FALSE	FALSE	FALSE	FALSE					
	WNDS	IND-Synd	Syndicated, paid progra	7.5	7.5-News	4.46%	FALSE	TRUE	TRUE	FALSE					
	WUNI	Univision	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE
	WUTF	Telefutura	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE
Buffalo	WNED	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WNLO	UPN	Syndicated	4	4-News	2.38%	FALSE	FALSE	TRUE	FALSE					
Chicago	WGBO	Univision	Spanish Language	7.5	7.5-News	4.46%	FALSE	TRUE	TRUE	FALSE	Y	FALSE	TRUE	TRUE	FALSE
	WJYS	IND-Relig.	Religious, shopping	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WSNS	Telemundo	Spanish Language	5	5-News	2.98%	FALSE	FALSE	TRUE	FALSE	Y	FALSE	FALSE	TRUE	FALSE
	WXFT	Telefutura	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE
	WYCC	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE					
Cleveland	WEAO	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WQHS	Univision	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE
Dallas	KMPX	IND-Span	Shopping, Paid program	0		0.00%	FALSE	FALSE	FALSE	TRUE					
Denver	KBDI	PBS	Public Television	11.5	.5-Sports, 3-Public Affairs, 8-Employment Help	6.85%	TRUE	TRUE	TRUE	FALSE					
	KCEC	Univision	Spanish Language	5.5	5.5-News	3.27%	FALSE	FALSE	TRUE	FALSE	Y	FALSE	FALSE	TRUE	FALSE
	KDEN	Other	Shopping, Paid program	1	1-Public Affairs	0.60%	FALSE	FALSE	FALSE	FALSE					
	KMAS	Telemundo	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE
	KTFD	Telefutura	Spanish Language	1	1-Public Affairs	0.60%	FALSE	FALSE	FALSE	FALSE	Y	FALSE	FALSE	FALSE	FALSE
	KWHD	IND-Relig.	Religious	1	1-Church	0.60%	FALSE	FALSE	FALSE	FALSE					
Detroit	WADL	IND-Synd	Syndicated, paid progra	0		0.00%	FALSE	FALSE	TRUE	FALSE					
Fresno	KGMC	IND-Relig	Religious	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	KNSO	Telemundo	Spanish Language	2	2-News	1.19%	FALSE	FALSE	FALSE	FALSE	Y	FALSE	FALSE	FALSE	FALSE
	KTFE	Telefutura	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE
Greenville	WGGS	IND-Relig	Religious	5.5	5.5-Religious	3.27%	FALSE	FALSE	TRUE	FALSE					
	WNTV	PBS	Public Television	4.5	.5-Business, 4-Music	2.68%	FALSE	FALSE	TRUE	FALSE					
Houston	KAZH	Azteca	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	KFTH	Telefutura	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE
	KTBU	IND-Synd	Syndicated, paid progra	3.5	.5-Public Affairs, 3-High School Sports	2.08%	FALSE	FALSE	TRUE	FALSE					
	KTMD	Telemundo	Spanish Language	4.5	4.5-News	2.68%	FALSE	FALSE	TRUE	FALSE	Y	FALSE	FALSE	TRUE	FALSE
	KZJL	IND-Eth	Shopping	0		0.00%	FALSE	FALSE	FALSE	TRUE					
Indianapolis	WHMB	IND-Relig	Religious	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WTBU	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE					
Las Vegas	KINC	Univision	Spanish Language	3.5	3.5-News	2.08%	FALSE	FALSE	TRUE	FALSE	Y	FALSE	FALSE	TRUE	FALSE
Little Rock	KVTN	IND-Relig	Religious	5.5	5.5-Public Affairs	3.27%	FALSE	FALSE	TRUE	FALSE					
	KYPX	PAX		6.5	2.5-Weather, 1-Public Affairs, 3-News	3.87%	FALSE	FALSE	TRUE	FALSE					

City	Station	Affil	Programming Format	Local Hours/W		% of Programmin g is Local	% Exceeds 5% Local	% Exceeds 4%	Exceed 3 hrs/week	No Local Programming or Local News	EchoStar Carries National Feed of Network					No Local Programming or Local News
				k.	Local Content						% Exceeds 5% Local	% Exceeds 4%	Exceed 3 hrs/week?			
Los Angeles	KBEH	IND-Span	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	KHIZ	IND-Synd	Syndicated, paid	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	KVMD	IND-Synd	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE						
Louisville	WBNA	IND-Relig	Religious			0.00%	FALSE	FALSE	FALSE	TRUE						
	WKMJ	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE						
Memphis	WLMT	UPN	Syndicated	8	4-Sports, 4-News	4.76%	FALSE	TRUE	TRUE	FALSE						
Minneapolis	KAWE	PBS	Public Television	6	6-News	3.57%	FALSE	FALSE	TRUE	FALSE						
Nashville	WHTN	IND-Relig	Religious	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	WJFB	IND-Relig	Syndicated	4.5	4.5-Local Programming	2.68%	FALSE	FALSE	TRUE	FALSE						
New York	WFTY	Telefutura	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE	
	WLIW	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	WLNY	IND	Syndicated	5.5	5-News, .5-Public Affairs	3.27%	FALSE	FALSE	TRUE	FALSE						
	WMBC	IND-Relig	Shopping	6	6-News	3.57%	FALSE	FALSE	TRUE	FALSE						
	WVNB	PBS	Public Television	10.5	10.5-News	6.25%	TRUE	TRUE	TRUE	FALSE						
	WVJU	Telemundo	Spanish Language	22.5	22.5-News	13.39%	TRUE	TRUE	TRUE	FALSE	Y	TRUE	TRUE	TRUE	FALSE	
	WNYE	PBS	Public Television	1.5	1.5-Public Affaira	0.89%	FALSE	FALSE	FALSE	FALSE						
	WRNN	IND-Synd	Shopping	17	17-News	10.12%	TRUE	TRUE	TRUE	FALSE						
Omaha	KYNE	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE						
Orlando	WACX	IND-Relig	Religious	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	WBCC	PBS	Public Television			0.00%	FALSE	FALSE	FALSE	TRUE						
	WCEU	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	WOTF	Telefutura	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE	
	WTGL	IND-Relig	Shopping	0		0.00%	FALSE	FALSE	FALSE	TRUE						
Paducah	WTCT	IND-Relig	Religious	19.5	19.5-Public Affairs	11.61%	TRUE	TRUE	TRUE	FALSE						
Philadelphia	WFMZ	IND	Syndicated, paid	33.5	33.5-News	19.94%	TRUE	TRUE	TRUE	FALSE						
	WGTW	IND	Syndicated	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	WVNS	PBS	Public Television	10.5	10.5-News	6.25%	TRUE	TRUE	TRUE	FALSE						
	WUVP	Univision	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE	
	WWSI	Telemundo	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE	
	WYBE	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE						
Pittsburgh	WPCB	IND-Relig	Religious	0		0.00%	FALSE	FALSE	FALSE	TRUE						
Roanoke	WDRL	UPN	Network	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	WJPR	WB	Network			0.00%	FALSE	FALSE	FALSE	TRUE						
Sacramento	KUVS	Univision	Spanish Language	10.5	10.5-News	6.25%	TRUE	TRUE	TRUE	FALSE	Y	TRUE	TRUE	TRUE	FALSE	
Salt Lake City	KCBU	IND-Shop	Shopping	0		0.00%	FALSE	FALSE	FALSE	TRUE						
San Francisco	KCSM	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	KMTP	PBS	Public Television	1.5	1.5-News	0.89%	FALSE	FALSE	FALSE	FALSE						
	KRCB	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	KSTS	Telemundo	Spanish Language	7.5	7.5-News	4.46%	FALSE	TRUE	TRUE	FALSE	Y	FALSE	TRUE	TRUE	FALSE	
	KTEH	PBS	Public Television	1	1-Public Affairs	0.60%	FALSE	FALSE	FALSE	FALSE						
	KTLN	IND-Relig	Religious	4.5	4.5-News	2.68%	FALSE	FALSE	TRUE	FALSE						
	KTNC	Azteca	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	KTSF	IND-Eth	International	18.5	3-News, 12-Music, 3.5-Public Affairs	11.01%	TRUE	TRUE	TRUE	FALSE						
Santa Barbara	KPMR	Univision	Spanish Language	4.5	4.5-News	2.68%	FALSE	FALSE	TRUE	FALSE	Y	FALSE	FALSE	TRUE	FALSE	
Seattle	KBCB	IND-Relig	Shopping, Paid	0		0.00%	FALSE	FALSE	FALSE	TRUE						
	KWOG	IND-Shop	Shopping	0		0.00%	FALSE	FALSE	FALSE	TRUE						

City	Station	Affil	Programming Format	Local Hours/Wk.	Local Content	% of Programming is Local	% Exceeds 5% Local	% Exceeds 4%	Exceed 3 hrs/week	No Local Programming or Local News	EchoStar Carries National Feed of Network	% Exceeds 5% Local	% Exceeds 4%	Exceed 3 hrs/week?	No Local Programming or Local News
Sioux Falls	KRNE	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	KWSD	WB	Network	4	1-Sports; 3-News	2.38%	FALSE	FALSE	TRUE	FALSE					
Spokane	KCDT	PBS	Public Television	1	.5-Public Affairs, .5-Nature	0.60%	FALSE	FALSE	FALSE	FALSE					
St. Louis	KNLC	IND-Relig	Religious	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WRBU	IND-Shop	Syndicated	0		0.00%	FALSE	FALSE	FALSE	TRUE					
Tampa/St. Petersburg	WCLF	IND-Relig	Religious	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WFTT	Telefutura	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE
	WMOR	IND	Syndicated	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WUSF	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WVEA	Univision	Spanish Language	5.5	5.5-News	3.27%	FALSE	FALSE	TRUE	FALSE	Y	FALSE	FALSE	TRUE	FALSE
Tulsa	KGEB	IND-Relig	Religious	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	KWHB	IND-Relig	Religious	3.5	1-Sports, 2.5-Affairs	2.08%	FALSE	FALSE	TRUE	FALSE					
Washington, D.C.	WFDC	Telefutura	Spanish Language	0		0.00%	FALSE	FALSE	FALSE	TRUE	Y	FALSE	FALSE	FALSE	TRUE
	WHUT	PBS	Public Television	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WJAL	IND-Synd	Shopping	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WNVC	IND	International	0		0.00%	FALSE	FALSE	FALSE	TRUE					
	WNVN	IND-Eth	International	7	7-News	4.17%	FALSE	TRUE	TRUE	FALSE					
Total							10	15	34	59	26	2	4	10	14
Percent							9.71%	14.56%	33.01%	57.28%	25.24%	7.69%	15.38%	38.46%	53.85%



## Attachment 2

### NAB Station Service Analysis

**ANALYSIS OF AFFILIATIONS OF STATIONS**  
**CITED IN**  
***“A NATIONAL REPORT ON LOCAL BROADCASTERS’ COMMUNITY SERVICE”***  
**National Association of Broadcasters Publication, June 2004**

<b>No.</b>	<b>TV Station</b>	<b>Location</b>	<b>Affiliation</b>	<b>Page #</b>
1	WEEK-TV	Peoria, IL	NBC	7
2	KTVL-TV	Medford, Oregon	CBS	9
3	KFVS-TV	Cape Girardeau, Missouri	CBS	9
4	KIMT-TV	Mason City, Iowa	CBS	11
5	WCAX-TV	Burlington, Vermont	CBS	12
6	KIDK-TV	Idaho Falls, Idaho	CBS	13
7	WDTV-TV	Clarksburg, West Virginia	CBS	15
8	WMTW-TV	Portland, Maine	ABC	16
9	KHNL-TV	Honolulu, Hawaii	NBC	16
10	KFVE-TV	Honolulu, Hawaii	WBN	16
11	WPEC-TV	West Palm Beach, Florida	CBS	16
12	KNOE-TV	Monroe, Louisiana	CBS	16
13	KUTV-TV	Salt Lake City, Utah	CBS	18
14	KAKE-TV	Wichita, Kansas	ABC	18
15	WKYC-TV	Cleveland, Ohio	NBC	19
16	KWQC-TV	Davenport, Iowa	NBS	19
17	KLAS-TV	Las Vegas, Nevada	CBS	19
18	WDIV-TV	Detroit, Michigan	NBC	21
19	KTIV-TV	Sioux City, Iowa	NBC	24
20	WOI-TV	West Des Moines, Iowa	ABC	25
21	KDFW-TV	Dallas- Fort Worth, Texas	FOX	26
22	KEYE-TV	Austin, Texas	CBS	28
23	WMUR-TV	Manchester, New Hampshire	ABC	32
24	KTBS-TV	Shreveport, Louisiana	ABC	32
25	WSBT-TV	South Bend, Indiana	CBS	33
26	KTUL-TV	Tulsa, Oklahoma	ABC	34
27	KTVX-TV	Salt Lake City, Utah	ABC	36
28	KVLY-TV	Fargo, North Dakota	NBC	37
29	KETV-TV	Omaha, Nebraska	ABC	37
30	KMVT-TV	Twin Falls, Idaho	CBS	38
31	WGN-TV	Chicago, IL	WBN	38
32	KLFY-TV	Lafayette, Louisiana	CBS	38
33	KTWO-TV	Casper, Wyoming	ABC	38
34	WPXN-TV	New York, NY	PAX	40
35	WLBZ-TV	Bangor, Maine	NBC	41
36	WCSH-TV	Portland, Maine	NBC	41
37	WXYZ-TV	Detroit, Michigan	ABC	41
38	KIRO-TV	Seattle, Washington	CBS	42

39	WDFX-TV	Dothan, Alabama	FOX	44
40	WAFB-TV	Baton Rouge, Louisiana	CBS	44
41	WOOD-TV	Grand Rapids, Michigan	NBC	44
42	KATU-TV	Portland, Oregon	ABC	45
43	WMC-TV	Memphis, Tennessee	NBC	45
44	WTVR-TV	Richmond, VA	CBS	45
45	KSAT-TV	San Antonio, Texas	ABC	46
46	KGUN-TV	Tucson, Arizona	ABC	48
47	WGEM-TV	Quincy, IL	NBC	49
48	WTVF-TV	Nashville, Tennessee	CBS	49
49	KFOR-TV	Oklahoma City, Oklahoma	NBC	49
50	WUSA-TV	Washington, DC	CBS	50
51	WBAL-TV	Baltimore, MD	NBC	50
52	WMAR-TV	Baltimore, MD	ABC	50
53	WXII-TV	Winston-Salem, North Carolina	NBC	50
54	WSYM-TV	Lansing, Michigan	FOX	50
55	KITV-TV	Honolulu, Hawaii	ABC	54
56	KBFD-TV	Honolulu, Hawaii	IND	54
57	KHNL-TV	Honolulu, Hawaii	NBC	54
58	KFVE-TV	Honolulu, Hawaii	WBN	54
59	KIKU-TV	Honolulu, Hawaii	IND	54
60	KHON-TV	Honolulu, Hawaii	FOX	54
61	KGMB-TV	Honolulu, Hawaii	CBS	54
62	KWHE-TV	Honolulu, Hawaii	IND	54
63	KTVO-TV	Kirksville, Missouri	ABC	54
64	KVAL-TV	Eugene, Oregon	CBS	54
65	KEZI-TV	Eugene, Oregon	ABC	54
66	KMTR-TV	Eugene, Oregon	NBC	54
67	KLSR-TV	Eugene, Oregon	FOX	54
69	KTVW-TV	Phoenix, Arizona	UNV	56
70	KJCT-TV	Grand Junction, Colorado	ABC	56
71	KBCI-TV	Boise, Idaho	CBS	56
72	WLFI-TV	Lafayette, Indiana	CBS	57
73	WHEC-TV	Rochester, NY	NBC	57
74	KPLC-TV	Lake Charles, Louisiana	NBC	57
75	WTIC-TV	Hartford, Connecticut	FOX	57
76	WXXX-TV	Waterbury, Connecticut	WBN	57
77	WPDE-TV	Myrtle Beach, South Carolina	ABC	58
78	WCVB-TV	Boston, MA	ABC	58
79	WKRC-TV	Cincinnati, Ohio	CBS	58
80	WMDT-TV	Salisbury, MD	ABC	58
81	KTVK-TV	Phoenix, Arizona	IND	59
82	KMSB-TV	Phoenix, Arizona	FOX	59
83	KTTU-TV	Tucson, Arizona	UPN	59
84	WPTZ-TV	Burlington, Vermont	NBC	63

85	WNNE-TV	Plattsburgh, NY	NBC	63
86	WWL-TV	New Orleans, Louisiana	CBS	63
87	WHNT-TV	Huntsville, Alabama	CBS	66
88	WNAC-TV	Providence, Rhode Island	FOX	66
89	WSIL-TV	Carterville, IL	ABC	67
90	WVNY-TV	Burlington, Vermont	ABC	67
91	WHIZ-TV	Zanesville, Ohio	NBC	68
92	WAVE-TV	Louisville, Kentucky	NBC	68
93	KOAA-TV	Colorado Springs, Colorado	NBC	68
94	WRTV-TV	Indianapolis, Indiana	ABC	69
95	WISH-TV	Indianapolis, Indiana	CBS	69
96	WBAY-TV	Green Bay, Wisconsin	ABC	69
97	KVBC-TV	Las Vegas, Nevada	NBC	70
98	WLIO-TV	Lima, Ohio	NBC	70
99	WKYT-TV	Lexington, Kentucky	CBS	70
100	WSFA-TV	Montgomery, Alabama	NBC	72
101	WISN-TV	Milwaukee, Wisconsin	ABC	72
102	WIS-TV	Columbia, South Carolina	NBC	73
103	KYMA-TV	Yuma, Arizona	NBC	73
104	WABI-TV	Bangor, Maine	CBS	74
105	KTVN-TV	Reno, Nevada	CBS	74
106	WEAU-TV	Eau Claire, Wisconsin	NBC	75
107	WLUC-TV	Marquette, Michigan	NBC	75
108	KGMB-TV	Honolulu, Hawaii	CBS	76
109	WAFF-TV	Huntsville, Alabama	NBC	76
110	WXIX-TV	Cincinnati, Ohio	FOX	77
111	WLTX-TV	Columbia, South Carolina	CBS	78
112	WAGM-TV	Presque Isle, Maine	CBS	78
113	WANE-TV	Fort Wayne, Indiana	CBS	79
114	WWTV-TV	Traverse City, Michigan	CBS	82
115	WWUP-TV	Traverse City, Michigan	CBS	82
116	WDEF-TV	Chattanooga, Tennessee	CBS	83
117	KAME-TV	Reno, Nevada	UPN	83
118	KCNC-TV	Denver, Colorado	CBS	83
119	WYFF-TV	Greensville, South Carolina	NBC	84
120	WDBJ-TV	Roanoke, VA	CBS	84
121	KOAT-TV	Albuquerque, New Mexico	ABC	84
122	KIVI-TV	Boise, Idaho	ABC	86
123	WTHR-TV	Indianapolis, Indiana	NBC	86
124	WHAS-TV	Louisville, Kentucky	ABC	89
125	WSAZ-TV	Charleston-Huntington, West Virginia	NBC	90
126	WLKY-TV	Louisville, Kentucky	CBS	90
127	WLVI-TV	Boston, MA	WBN	91
128	KRON-TV	San Francisco, CA	IND	92

## Summary

<b>Affil.</b>	<b>Total</b>	<b>Percentage</b>		<b>Total</b>	<b>Percentage</b>
ABC	42	32.81%			
CBS	28	21.88%			
NBC	35	27.34%			
FOX	9	7.03%	Total Big 4	114	89.06%
WB	6	4.69%			
UPN	2	1.56%			
PAX	1	0.78%			
Univ	1	0.78%			
Ind	4	3.13%	Total Others	14	10.94%
<b>Total</b>	<b>128</b>	<b>100.00%</b>			

<b>Excluding Market-Wide Initiatives</b>					
<b>Affil.</b>	<b>Total</b>	<b>Percentage</b>		<b>Total</b>	<b>Percentage</b>
ABC	40	34.48%			
CBS	26	22.41%			
NBC	33	28.45%			
FOX	7	6.03%	Total Big 4	106	91.38%
WB	5	4.31%			
UPN	2	1.72%			
PAX	1	0.86%			
Univ	1	0.86%			
Ind	1	0.86%	Total Others	10	8.62%
<b>Total</b>	<b>116</b>	<b>100.00%</b>			

## Attachment 3

Letters from Charlie Ergen, President of EchoStar to  
Chairman Powell dated  
September 8, 2004 and September 28, 2004



September 8, 2004

Hon. Michael K. Powell, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Chairman Powell:

You probably have grown accustomed to the communications industries coming to you with their disputes. This time, I am pleased to present to you a success story of two industries working together in the interest of public safety.

Last month, while the state of Florida braced for Hurricane Charley, we at EchoStar were concerned that the storm might damage the transmission towers of the local broadcasters, leaving Florida citizens without important emergency information. We reached out to our broadcasting partners and worked with them to provide Tampa and Ft. Myers subscribers with an alternative means of receiving local news and weather from nearby Orlando. In response to our initiative, even though the broadcasters had the right to prohibit DISH Network from importing distant signals from Orlando, they instead allowed our subscribers to view the Orlando stations and have an uninterrupted source of critical information. DISH Network and its broadcasting partners agreed to set aside business interests and contractual rights, focusing instead on the effort to ensure that satellite TV viewers continue to stay abreast of storm developments.

For example, DISH Network obtained permission to replace three Tampa TV signals with signals out of Orlando, where news crews were also closely monitoring the storm. Broadcasters in Tampa affiliated with CBS (WTSP, Channel 10), NBC (WFLA, Channel 8) and Fox (WTVT, Channel 13) allowed DISH Network to import the Orlando sister stations temporarily after DISH Network's receiving station in Tampa lost power. Also, the ABC affiliate in Tampa (WFTS, Channel 28) established an alternative means for DISH Network to receive its signal, sending it directly to Atlanta, where DISH Network was able to pick it up via another receiving station.

This month, when Hurricane Frances was bearing down on Florida, we reached out to our friends in the broadcast industry again to ensure that important emergency information remained available to Florida's citizens. For example, working with senior management at Viacom Inc. and the local station management of a Viacom-owned station in West Palm Beach, we allowed that station to receive the weather information provided by a neighboring NBC affiliate. In addition, to ensure sufficient backup, we secured permission from ABC, NBC, and CBS affiliates in Tampa to import their signals to neighboring Florida markets that might have lost power. Finally, we received similar permission from network affiliates in Jacksonville, Orlando, West Palm Beach, and Miami/Ft. Lauderdale, with the notable exceptions of a Fox affiliate



owned by Raycom, two Hearst-Argyle owned stations, and a station owned by Sunbeam. Fortunately, we ultimately used our backup arrangements only for a brief period, but DISH Network subscribers in areas hit by the storm had a reliable source of emergency information.

Currently, we have increased the level of resources to storm-damaged areas in Florida for residents in need of video communications services and are alerting the public of DISH Network availability through radio advertisements. For example, we brought technicians into Florida from other states to help meet increased consumer needs. This is particularly relevant where cable television service has not yet been restored.

I think you would agree that the actions described above represent the kind of cooperation among the communications industries that Americans expect in a time of emergency. We at EchoStar worked quickly to anticipate the effects of the storms and were met with cooperation from broadcasters, and continue to work in storm-damaged areas to maintain and improve service.

Our experience in Florida also underscores the importance of maintaining a robust, space-based communications infrastructure in addition to a terrestrial broadcast system. Three years ago, when the World Trade Center collapsed and brought down broadcast transmission facilities with it, EchoStar worked with cable operators and broadcasters to provide alternative local signals to New York's cable headends via satellite. Similarly, when Hurricane Charley knocked out terrestrial towers and receive facilities in Florida last month, and when Hurricane Frances did so again this month, we were able to bring in neighboring local signals via satellite. Such examples make clear that, particularly in these times, the American public is well served when companies work together, take advantage of both space-based and terrestrial communications systems, and maintain a reliable flow of information to the public.

Sincerely,

Charles W. Ergen  
Chairman and CEO

cc: Commissioner Kevin J. Martin  
Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Commissioner Jonathan S. Adelstein





September 28, 2004

Hon. Michael K. Powell, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Chairman Powell:

As you are aware, during the first two major hurricane's to hit Florida this season, DISH Network and many area broadcasters worked in partnership to ensure that vital news and weather would remain available to viewers in the path of the storms. DISH and its broadcast partners continued their pattern of cooperation in the most recent storms. For example, as Hurricane Ivan took aim at Louisiana, Alabama and Florida markets, stations in 12 markets expected to be affected by the storm (Miami, Ft. Myers, West Plam Beach, Tampa, Orlando, Jacksonville, Tallahassee, Albany, Panama City, Mobile, Montgomery and New Orleans) gave permission to import their signal into another market if that market lost power and also waived objection to the delivery of an outside signal in the event that their own station went down. (Only the Hearst and Fox O&O owned stations, along with a Sinclair, Sunbeam, raycom, and Waterman Broadcasting stations refused.)

In addition, to ensure sufficient backup during Hurricane Jeanne, DISH Network secured permission from ABC, NBC, and CBS affiliates in Tampa to import their signals to neighboring Florida markets that might have lost power. We also received permission to import these Tampa affiliates into the Jacksonville, Orlando, West Palm Beach, and Miami/Ft. Lauderdale DMAs in the event that a station in these markets lost power. Notable exceptions were Fox O&O stations, a Fox affiliate owned by Raycom, two Hearst-Argyle owned stations, and a station owned by Sunbeam. Fortunately, we ultimately used our backup arrangements only for a brief period, but DISH Network subscribers in areas hit by the storm had a reliable source of emergency information.

Sincerely,

Charles W. Ergen  
Chairman and CEO

cc: Commissioner Kevin J. Martin  
Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Commissioner Jonathan S. Adelstein